

## EXHIBIT 42

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

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6 U. S. Bank National  
7 Association as Trustee,

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9 Plaintiff,

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11 vs. File No. 07 C 1544

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13 Wendy S. Cook, a/k/a

14 Wendy C. Cook,

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16 Defendant.

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21 DEPOSITION OF

22

JUDY FABER

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25 Taken June 2, 2008 By Paula K. Richter

1 APPEARANCES VIA TELEPHONE:

2

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17

APPEARANCE IN PERSON:

18

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Phone: 952-857-7000

21 By: David Hagens  
For GMAC

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1 INDEX

2  
Examination by Mr. Hollander, page 4

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5 OBJECTIONS BY:

Mr. Shaw .....7, 12, 15, 16, 18, 19

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NO EXHIBITS WERE MARKED FOR IDENTIFICATION

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1 THE DEPOSITION OF JUDY FABER is taken on this 2nd  
2 day of June, 2008, at the offices of GMAC, One  
3 Meridian Crossing, Richfield, MN 55423, commencing  
4 at approximately 2:20 p.m. pursuant to notice.

5

6 JUDY FABER,  
7 a witness in the above-entitled  
8 action, after having been first  
9 duly sworn, deposes and says as  
10 follows:

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12 EXAMINATION

13

14 BY MR. HOLLANDER:

15 Q. Please state your full name.

16 A. Judy Faber.

17 Q. F-A-B-E-R?

18 A. F-A-B-E-R, yes.

19 Q. For the record, this is the deposition of

20 Judy Faber, taken pursuant to notice set for



- 21 today's date by agreement of the parties.
- 22 Counsel, can I just ask -- I want to confirm
- 23 there's no new documents being produced for
- 24 this deposition.
- 25 MR. SHAW: No. We brought the

1 documents you asked us to have for this  
2 deposition. That's it.

3 MR. HOLLANDER: Thank you.

4 BY MR. HOLLANDER:

5 Q. Ms. Faber, have you given a deposition  
6 before?

7 A. Yes.

8 Q. Okay. I'll be very brief then. As you know,  
9 this is a process by which I'm asking  
10 questions regarding a pending lawsuit here in  
11 Chicago called U.S. Bank National Association  
12 versus Wendy S. Cook.

13 If you don't understand any  
14 question that I ask you, please let me know  
15 that and I'll be happy to try and rephrase  
16 the question. Please answer the questions  
17 yes or no so that we're clear on what your  
18 answer is. And if you have any questions or  
19 want to take a break or anything like that,  
20 just speak right up and I'll be happy to

21 accommodate you?

22 A. Okay.

23 Q. Fair enough?

24 A. Sure.

25 Q. By whom are you employed?

1 A. Residential Funding Company, LLC.

2 Q. For how long have you been employed there?

3 A. Eleven years.

4 Q. And what's your position there?

5 A. Director of Records Management, the Minnesota  
6 site.

7 Q. For how long have you held that position?

8 A. Eleven years.

9 Q. What are your duties and responsibilities in  
10 that position?

11 A. I manage the records for the Residential  
12 Funding Corporation. Basically, the physical  
13 paper and the images that are created from  
14 the physical paper, fulfilling requests for  
15 those and then managing the physical  
16 documents.

17 Q. Now, when you said you're the Director of  
18 Records Management for the Minnesota office?

19 A. Uh-huh.

20 Q. Are there other offices of Residential

- 21 Funding that maintain records that you are
- 22 not responsible for?
- 23 A. There are records services sites in Iowa and
- 24 in Pennsylvania. Those deal mostly with the
- 25 GMAC mortgage assets.

1 Q. GMAC?

2 A. Right.

3 Q. Okay. And do you have any responsibility for

4 maintaining those records?

5 A. No.

6 Q. The records that relate to the loan at issue

7 in this case, that being the loan to a

8 gentleman named Peter Cook, are those records

9 that are maintained at the Minnesota office?

10 A. Yes.

11 Q. And what, if anything, is your responsibility

12 with regard to those records?

13 A. To track the physical paper for those

14 assets -- or that asset.

15 Q. Are you what you consider to be the keeper of

16 the records for those documents?

17 A. Sure, yep.

18 MR. SHAW: I object to the extent

19 he's asking for a legal conclusion.

20 BY MR. HOLLANDER:

21 Q. So in the chain of command at Resident -- I'm

22 sorry, the name of the company is Residential

23 Funding?

24 A. Residential Funding Company.

25 Q. I'm going to call it Residential Funding?

1 A. Or you can say --

2 Q. In the chain of command at Residential

3 Funding, who is your immediate superior?

4 A. Rachel Switzer.

5 Q. How do you spell the last name?

6 A. S-W-I-T-Z-E-R.

7 Q. Thank you. What's Ms. Switzer's title?

8 A. I -- I hesitate because we -- we're not hung

9 up on titles, I guess. She's my manager.

10 Q. So she does not have a title as far as you

11 know?

12 A. I -- I don't know.

13 Q. Okay. On a day-to-day basis, what job

14 responsibilities do you have at the company?

15 A. Day-to-day?

16 Q. Yeah.

17 A. Probably more project type management as we

18 look at different systems, look at different

19 processes. Are we doing what we should be

20 doing? Looking at key metrics. What does it



21 cost us to do what we do? How many widgets

22 can we produce in a given day -- or given --

23 one person.

24 Q. When you say project management, are you

25 talking about projects regarding how the

1 company manages its records?

2 A. Some. Probably more -- right now probably

3 more system related as to how do we track our

4 records.

5 Q. Okay. And then when somebody wants to view

6 specific records from your system, is that

7 something that you're responsible for

8 obtaining as part of your day-to-day

9 responsibilities?

10 A. The people that report to me, yes, or the

11 vendor that -- that we have retained to do

12 those functions, yes. I don't do that

13 myself.

14 Q. Who's the vendor that you retain to do that?

15 A. A company called ACS.

16 Q. ACS?

17 A. Yep.

18 Q. And what does ACS do with regard to the

19 records?

20 A. They fulfill the request. So if somebody

- 21 needs a credit folder or a legal folder, they
- 22 research where those documents are, obtain
- 23 the documents and then provide that requestor
- 24 with either the paper documents or images.
- 25 Q. And ACS is an independent company?

1 A. Yes.

2 Q. As part of your day-to-day responsibilities,

3 do you give direction to employees of ACS?

4 A. Yes.

5 Q. And what types of matters do you supervise or

6 direct the ACS employees on?

7 A. Basically, the fulfillment services. So how

8 do you fulfill a request for a document or a

9 folder.

10 Q. Now, in this case, did somebody request that

11 you obtain documents from your system?

12 A. Can you clarify?

13 Q. Yes. Let's put it this way: When was the

14 first time you were even aware that the

15 lawsuit of U.S. Bank versus Cook was pending?

16 A. I -- I couldn't really tell you.

17 Q. Within the last month?

18 A. I believe it was before that. I believe I --

19 if this -- I believe I received some type of

20 notification, which I handed over to the

21 legal department here.

22 Q. By notification, what do you mean?

23 A. I think a notice of the -- of the lawsuit or

24 the deposition. I apologize. I -- I

25 honestly don't remember. But it was --

1 Q. Don't apologize. Whatever you know is all

2 we're asking.

3 A. Yeah. It was probably within the last couple

4 months.

5 Q. And the first -- your first knowledge of the

6 lawsuit was when you got some kind of notice

7 that you would be giving a deposition?

8 A. I think so, yeah.

9 Q. Okay. After you received -- well, prior to

10 you receiving that notice, you had nothing to

11 do with this case or any of the documents in

12 the case. Would that be correct?

13 A. Correct, yep.

14 Q. After you received the notice of the

15 deposition, did you ever obtain documents

16 from your computer system or direct anybody

17 else to obtain documents from the computer

18 system?

19 A. I -- I did not, no.

20 Q. And you didn't direct anybody else to,

21 correct?

22 A. No.

23 Q. Not correct or it is correct?

24 A. Oh. That is correct. Sorry.

25 Q. It's okay.

1 MR. SHAW: I want to object.  
2 Would you clarify that line of questioning  
3 because now I'm very confused as to what the  
4 answer was to which question.

5 MR. HOLLANDER: I think you're  
6 going to have the opportunity, but I  
7 understand it. I'm just going to move along  
8 here. If you think you need clarification,  
9 by all means, when I'm done go ahead.

10 BY MR. HOLLANDER:

11 Q. Ms. Faber, you have some documents in front  
12 of you that on their face purport to relate  
13 to the loan to Peter Cook; is that correct?

14 A. If you could clarify which documents you're  
15 referring to.

16 Q. I'm just referring -- you have a group of  
17 documents that relate to this loan, correct?

18 A. In regards to the -- the letter that was  
19 sent?

20 Q. Do you have documents with you now?



21 MR. HAGENS: Let me just clarify.

22 David Hagens here. She has in front of her

23 the package of documents that I think came

24 from your office, and she also has a copy --

25 or she doesn't have a copy -- she has the

1 original loan file.

2 MR. HOLLANDER: Okay. Thanks.

3 MR. HAGENS: Sure.

4 BY MR. HOLLANDER:

5 Q. Is that correct then, Ms. Faber?

6 A. Yes.

7 Q. And the original loan file, where did you

8 obtain that from?

9 A. From Skyler Hanson in our legal department.

10 Q. Do you have any idea where that person got

11 the documents from?

12 A. It would have come from our off-site vendor.

13 Q. How do you know that?

14 A. In our system, it shows the tracking of the

15 loan file.

16 Q. And is there something on these documents

17 that shows where they came from?

18 A. Well, on the original file itself, there's

19 a -- a sticker that shows that it came from

20 our off-site vendor.

21 Q. There's a file folder that shows it came from

22 the outside vendor?

23 A. Yes. Their sticker is affixed to the front

24 of the folder, so I know it came from them.

25 Q. Okay. And then is there anything on the

1 documents themselves that show where they

2 came from?

3 A. No.

4 Q. And by the outside vendor, do you mean ACS?

5 A. No. Actually, the vendor that stores the

6 actual folder is Iron Mountain.

7 Q. So there's a sticker on that file that shows

8 it came from Iron Mountain?

9 A. Correct, yes.

10 Q. Does Iron Mountain maintain your system or do

11 they just maintain hard copies of documents?

12 A. They maintain the hard copies of the

13 documents.

14 Q. Not any records on your computer system,

15 correct?

16 A. No.

17 Q. Is that correct?

18 A. Correct.

19 Q. Okay. So the file you have in front of you,

20 based on the sticker, indicates to you that

21 that came from Iron Mountain?

22 A. Right. And that's also validated by our

23 tracking system that shows that it came from

24 Iron Mountain.

25 Q. What tracking system is that?

1 A. RMS.

2 Q. What does RMS stand for?

3 A. Records Management System.

4 Q. Is that the name of a company or your actual

5 system?

6 A. That's our system. It's a homegrown system.

7 Q. Do you have a document with you from RMS that

8 shows what you just mentioned to me?

9 A. No, I don't.

10 Q. So how do you know that RMS shows where the

11 records came from?

12 A. When Skyler gave me the file, I had to go

13 into RMS and change the location from Skyler

14 to myself.

15 Q. Okay.

16 A. And at that point, I could see the history of

17 the movement of the file.

18 Q. And then did you add to that history?

19 A. Yes.

20 Q. And those are documents that have not been

21 produced to me, correct?

22 A. I don't know.

23 MR. SHAW: I object. She does not

24 know what's been produced to you.

25 BY MR. HOLLANDER:

1 Q. Ms. Faber, the documents you have in front of  
2 you at this time, are the RMS records showing  
3 the tracking of these documents included  
4 within what's in front of you?

5 A. No.

6 MR. SHAW: I object. I think  
7 she's answered what's in front of her at this  
8 time.

9 BY MR. HOLLANDER:

10 Q. You can answer.

11 A. No.

12 Q. When you looked at the tracking system, it  
13 shows the movement of documents. Does it  
14 show specific documents?

15 A. No. It shows the movement of the folder.

16 Q. The folder containing the hard copies?

17 A. Right.

18 Q. Okay. Other than the fact that these  
19 documents came from storage at Iron Mountain,  
20 do you have any other personal knowledge of



21 where these documents came from?

22 A. No.

23 Q. Have you ever done a search of the system at

24 Residential Funding to determine what

25 documents are kept on that computer system?

1 A. I'm sorry. Can you restate that? I'm not

2 sure what you're asking.

3 Q. Sure. Does the computer system maintained by

4 Residential Funding contain within it images

5 of documents that relate to the Peter Cook

6 loan?

7 A. Yes.

8 Q. Have you looked at any of those documents?

9 A. No.

10 Q. Do you have any personal knowledge of whether

11 Wendy Cook has signed any of the documents

12 that relate to the loan involved in the U.S.

13 Bank versus Cook lawsuit?

14 A. No.

15 Q. Would you have any way to recognize Wendy

16 Cook's signature?

17 A. No.

18 Q. What's the relationship between Residential

19 Funding Company, LLC and U.S. Bank National

20 Association?

21 A. In -- in this instance, U.S. Bank is the

22 trustee on the security that this loan is in.

23 And RFC was the issuer of the security that

24 was created.

25 Q. Who was the issuer of the security?

1 A. RFC was the issuer of the security.

2 Q. Oh, RFC is what you call Residential Funding

3 Company?

4 A. Yes.

5 Q. So RFC issued the security?

6 A. Right.

7 Q. Can you explain to me what that means?

8 A. No, I can't.

9 Q. Okay. How do you know RFC issued the

10 security?

11 A. It's the normal course of business as to how

12 our -- our business works. RFC is in the

13 business of acquiring assets and putting them

14 together into securities to sell in the -- in

15 the market.

16 MR. SHAW: I would like to

17 register a general objection to this line of

18 questioning. There's not been a foundation

19 laid for Judy Faber being competent to reach

20 some of these conclusions that are being

21       stated on the record.

22   BY MR. HOLLANDER:

23   Q. So in this particular instance, do you have

24       any personal knowledge of the relationship

25       between RFC and U.S. Bank National

1 Association as trustee?

2 A. No.

3 Q. For whom is U.S. Bank National Association

4 acting as the trustee?

5 A. I believe it would be for the investors of

6 the -- that have bought the securities.

7 Q. I'm sorry. Something happened with the phone

8 and I didn't hear your answer. I'm sorry.

9 A. I believe it would be for the different

10 investors who have bought pieces of that

11 security that was issued.

12 Q. Are there different investors that have

13 purchased the Peter Cook note?

14 A. I don't think I'm qualified to answer that.

15 You know, I can tell you from what my basic

16 understanding is from the process, but I'm

17 not an expert.

18 MR. SHAW: Once again, I'd like to

19 raise a continuing general objection that she

20 being -- testifying with respect to what her

21 job is, and I believe you're getting into  
22 areas that is other than what her job is and  
23 you're asking for possibly even legal  
24 conclusions here. So I would like to raise  
25 that objection again.

1 BY MR. HOLLANDER:

2 Q. Are you aware of any investors who have  
3 purchased or have an interest in the mortgage  
4 purportedly signed by Wendy Cook?

5 A. No.

6 Q. You haven't seen any records that would tell  
7 you who the trustee is; is that correct?

8 A. I know who the trustee is, but I don't know  
9 who any -- who any of the investors would be.

10 Q. I'm sorry. I apologize. That was a poor  
11 question. Is it correct that you have not  
12 seen any records that indicate who the  
13 investors or owners are of the Peter Cook  
14 note or the mortgage allegedly signed by  
15 Peter and Wendy Cook?

16 A. That is correct.

17 Q. If you could please look at -- I just want to  
18 go through a few of the exhibits in front of  
19 you.

20 A. Okay.



21 Q. The one I want to start with should be

22 Exhibit 3. That says Corporation Assignment

23 of Mortgage.

24 A. Okay.

25 Q. Other than the fact that this document was in

1 the file you received from Iron Mountain, do  
2 you have any other knowledge of the creation  
3 or maintenance of this document?

4 A. No.

5 Q. Have you seen an assignment that relates to  
6 the mortgage or loan involved in this lawsuit  
7 other than Exhibit 3?

8 A. No.

9 Q. If you could please look at Exhibit 2.

10 A. Okay.

11 Q. Could you tell me what that document is?

12 A. To me, it appears to be a pay history.

13 Q. Do you have personal knowledge of whether  
14 this is a document that is maintained in the  
15 normal course of business by RFC?

16 A. Not spes -- no.

17 Q. And there's some entries on this document.

18 Do you understand what those entries mean?

19 A. No.

20 Q. Those are the only questions I have,

21 Ms. Faber. Thank you very much for taking

22 the time to answer these questions.

23 THE WITNESS: Okay.

24 MR. SHAW: If we could have a

25 moment, I would like to discuss something

1 with Wayne Creel. I will leave the room for  
2 a second.

3 MR. HOLLANDER: If you want, I can  
4 get off the phone and call back in, or you  
5 can give me a call and let me know when  
6 you're ready for me to rejoin the --

7 MR. SHAW: Yeah. Let's just do  
8 that.

9 MR. HOLLANDER: I'll get off now  
10 and then I'll just wait for you to call me  
11 back.

12 MR. SHAW: At what number should I  
13 call back?

14 MR. HOLLANDER: 312-364-9100.

15 MR. SHAW: Okay. I'll call you  
16 back.

17 MR. HOLLANDER: Thank you.

18 (Off the record from 2:45 until  
19 2:57 p.m.)

20 MR. SHAW: We have no further

21 questions.

22 MR. HOLLANDER: Okay. What do you

23 want to do with signature?

24 MR. SHAW: Reserve it.

25 MR. HOLLANDER: Okay. Everybody

1     thank you very much. I appreciate this and  
2     we'll be talking to you soon.

3             (Whereupon, the foregoing  
4     deposition was adjourned at 2:58 p.m.)

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8     \*\*\* REPORTER'S NOTE: The original transcript is  
9     being delivered to Attorney Gary Hollander.

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1 DEPOSITION CORRECTION SHEET

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3 PAGE / LINE REASON

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1 I, JUDY FABER, have read this deposition transcript  
2 and acknowledge herein its accuracy except as noted:

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Signature

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Notary Public

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1 STATE OF MINNESOTA)  
2 ) ss CERTIFICATE  
3 COUNTY OF RAMSEY )

4 I, PAULA K. RICHTER, Registered  
5 Professional Reporter, hereby certify that I  
6 reported the deposition of Judy Faber on the 2nd  
7 day of June, 2008, in Richfield, Minnesota, and  
8 that the witness was by me first duly sworn to  
9 tell the truth, the whole truth and nothing but  
10 the truth concerning the matter in controversy  
11 aforesaid;

12 That I was then and there a Notary  
13 Public in and for the County of Ramsey, State of  
14 Minnesota;

15 That by virtue thereof I was duly  
16 authorized to administer an oath;

17 That the foregoing transcript is a true  
18 and correct transcript of my stenographic notes in  
19 said matter, transcribed under my direction and  
20 control;

21 That the cost of the original has been  
22 charged to the party who noticed the deposition,  
23 and that all parties who ordered copies have been  
24 charged at the same rate for such copies;

25 That the reading and signing of the  
26 deposition by the witness was not waived;

27 That I am not related to nor an employee  
28 of any of the attorneys or parties hereto, nor a  
29 relative or employee of any attorney or counsel  
30 employed by the parties hereto, nor financially  
31 interested in the outcome of the action and have  
32 no contract with the parties, attorneys or persons  
33 with an interest in the action that affect or has  
34 a substantial tendency to affect my impartiality;

35 WITNESS MY HAND AND SEAL this 9th day of  
36 June, 2008.

37

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22

23

24           Paula K. Richter  
25           Registered Professional Reporter  
              Notary Public

